November 13, 1952

MEMORANDUM FOR THE DIRECTOR

There is attached hereto an agenda of material to be utilized in the event questions are directed to you as to certain programs in the future.

The Table of Contents, which is the front page of the material, is keyed to the individual tabs on individual sections.

With reference to Section E setting forth suggestions to improve the quality of persons appointed to the Federal judiciary, four cases of judges are mentioned. Their names appear on the yellow and in addition, there are attached hereto four more detailed summaries of these particular judges.

Messrs. Tolson, Ladd, Clegg, Nichols concur in the material in its entirety. Mr. Belmont has reviewed the last two sections dealing with internal security and concurs.

By separate memorandu, Mr. Nichols is setting forth certain additional suggestions with reference to a complete revision of the Loyalty Program.

Respectfully,

L. B. Nichols

LBN:FML
Attachment

ENCL 71

Gave to Mrs. Brownell, Nov. 21
[illegible]
[illegible] 98585-2280

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Problems

(a) Should an emergency develop, time is of the essence and it will be necessary for the President and Attorney General to promptly implement the program to authorize the immediate picking up of these individuals.

(b) The FBI has requested the Department of Justice to review each case submitted by the FBI under this program to the end that there can be an independent evaluation of the potential dangers of persons to be taken into custody. This matter is now pending in the Department of Justice.

(c) The Program was originally initiated on the basis that the President would suspend the writ of habeas corpus. Since then, the Internal Security Act of 1950 was passed and the Attorney General by memorandum on October 8, 1952, stated that the standard of apprehension as provided by the Act must be considered when reviewing the cases. The FBI requested advice of the Attorney General by memorandum dated October 15, 1952, and assurances that he intends to proceed in an emergency under the Department's Program rather than the detention provisions of the Internal Security Act of 1950. This matter is presently pending in the Department of Justice.

Downgrade to Secret 60322 AUC LP/TAB/RW/JN 9-29-2005

November 12, 1953

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62-98585-22

ENCLOSURE

Willis Wm. Ritter
District Judge, Utah

Persons interviewed in the investigation described applicant under consideration to the Federal Bench as being of a vindictive nature, egotistical, who disregards Government restraints, considers himself superior to others, is easily offended, dictatorial and autocratic, quick-tempered, unfair, prejudiced and lacking in humility.

The investigation disclosed that while in OPA during the war years this applicant was a heavy drinker and on occasions would have to wait several hours in a hotel room to sober up before talking on the telephone. It was reported that he had an affair with a female employee of OPA and there was frequent talk of divorcing his wife. The girl admitted a friendly relationship, that she still considers the possibility of marrying the Judge but denied any immoral relationship.

It was disclosed that the judicial applicant on one occasion told a class, "There is nothing wrong with the Communist Party." On another occasion the applicant advised a member of the Communist Party to join the Progressive Citizens of America. When a member of the Communist Party was having difficulty getting his teaching contract renewed the judicial applicant is reported as having counseled that he would furnish necessary legal advice to restore his position if necessary.

The applicant sent a communication to Governor Dewey of New York urging clemency for Morris U. Schappes, a member of the Communist Party who received an 18 months sentence for perjury.

Since going on the Bench, this Judge has been most vindictive and biased toward law enforcement.

In one case the Judge entertained a motion for a directed verdict of innocence in an Automobile Theft Case even though evidence was presented as to the defendent's guilt. Following protests of the U. S. Attorney the Judge let the case go to the jury. The defendent even admitted the transportation of the car but denied stealing it or knowing it was stolen. The Government's case had been so prejudiced by the Judge the jury delivered a verdict of not guilty at

5:30 P.M. on May 22, 1958. At 6:15 that same day the defendent stole another car and was arrested the next morning. (William Frederick Moore).

In another case the Judge demanded that a Special Agent of the FBI reveal his informant and it was necessary to tell the court the informant would testify and could be cross examined. [redacted] This Judge's attitude is such that this U. S. Attorney's Office has stated in the future they will decline to prosecute certain types of cases. b7D

November 17, 1958

Stephen S. Chandler
Federal District Judge
Oklahoma City, Oklahoma

In the investigation fifteen persons, prominent in business, political and legal circles out of thirty-five opposed the appointment of a local lawyer as a Federal Judge as an affront to the legal profession. The judicial applicant was described as a social snob, a man of low morals, who frequently gave parties which were drunken debauches and at which he would have prostitutes as entertainers for himself and guests.

The investigation disclosed on one occasion he called

[redacted] b6 b7C

[redacted] (77-10284-19)

Since his appointment it has been apparent that the Judge has a most critical view against all law enforcement.

Judge Chandler stated to a reliable individual that law enforcement officers are prejudiced, incompetent, untruthful, unqualified, inept and cowardly, and no credence could be placed in their testimony. (77-10284-37) [redacted] b6 b7C b7D
[redacted] furnished confidentially to SA [redacted] 11/2/51)

SAC D. A. Eryce reports that on April 16, 1948, he talked with Judge Chandler in his Chambers. Judge Chandler stated that his sympathy was always with the defendant, and the defendant would always get every break possible in his Court. He stated, "I don't believe the USA's Office is in accord with my observations in this respect, and I doubt very seriously that they relish the idea of trying cases in my Court; notwithstanding that fact, I still just cannot put a blemish on one's character over minor violations, such as White Slave Traffic Act, National Motor Vehicle Theft Act, and other similar violations."

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Judge Chandler also stated that although he feels that subjects in White Slave Traffic Act cases have used little judgment in transporting a woman across the State line, he still does not feel that they should be convicted along these lines, adding that he personally had found in traveling around over the country that it was never necessary for him to take a woman along as there are usually more women where one is going than he leaves at home. (62-87556-2)

Five cases between 1944 and 1949 clearly illustrate Judge Chandler's views on White Slave Traffic Act cases. They are:

Henry Lee Layne, with aliases;
[redacted] with aliases, Victim, 1944.

Samuel Thomas Reust, with alias, 1947. (Victim in this case was fifteen years of age.)

Carlford Warren Riley;
[redacted] with aliases, Victim, 1947. b6 b7C

Floyd Edgar Stuart;
[redacted] with alias, Victim, April, 1948.

Howard Edward Young;
[redacted] Victim, May, 1949.

In the first case, Judge Chandler directed a verdict in favor of the defendant in spite of the evidence.

In the next three, in trials without a jury, he found the defendant not guilty, in spite of the evidence.

In the last mentioned case, Young, on a plea of guilty, was sentenced to serve actual sentence of thirteen days and was placed on probation for five years. Judge Chandler stated to a confidential source, ". . . in order to keep them (law enforcement officers) away from Young, I will place him on five years probation."

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Judge Chandler's views on violators of the Interstate Transportation of a Stolen Motor Vehicle Statute are illustrated by cases involving Artus Floyd Thomas (March, 1948, thirty automobiles involved); William Marvin Clark and Walter Junior Worth (April, 1948, subjects escaped Federal prisoners, two automobiles stolen to effect escape); Albert James Sharon and Robert John Meenge (May, 1949, two men with criminal records getting

probationary sentences).

Judge Chandler's views on violators of the Interstate Transportation of a Stolen Motor Vehicle, as well as the Kidnaping Statute, are illustrated by the case of Donald John Klein and Wayne Louis Sass (May 2, 1949, these defendants got short sentences although they used firearms in taking an automobile); James Edward Oglesby and John Warren Colline (January, 1950, Oglesby, age seventeen, on his plea sentenced one day on kidnaping charge, five years probation on Interstate Transportation of Stolen Motor Vehicle. Colline, age twenty-one, was sentenced to seven years for kidnaping and Interstate Transportation of a Stolen Vehicle, sentences to run concurrently.) (62-87556-2,5,6)

William Edward Cook, Jr., car thief and multiple murderer, killed the entire Mosser family consisting of Mr. and Mrs. Mosser and their three children. Judge Chandler imposed five sixty-year sentences on Cook on his plea of guilty and specified the sentences were to be consecutive and not concurrent, and directed that Cook serve his time in Alcatraz; but during the proceedings, Judge Chandler stated that the individual responsible for Cook's crimes was the first judge who sentenced Cook to the penitentiary. He added that the judge and not Cook is the one who should be punished.

Judge Chandler declined to permit the transfer of Cook from the Oklahoma City jail to the Federal Reformatory at El Reno, stating that the reformatory was filthy and not a fit institution in which to detain a prisoner. Judge Chandler repeated to still another source that Cook was not responsible for his crimes and that the judges who had previously sentenced him to the reformatory and the penitentiary are the ones who should be punished. (88-5869-517)

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Richard M. Duncan
Federal District Judge
Kansas City, Missouri
(62-47479)

One Judge was confirmed by the Senate when a Senator from his state requested a suspension of the Senate rule referring such nominations to the Judiciary Committee which request was granted and the nomination was confirmed. (The Senator was Harry Truman).

The investigation revealed that when the endorsement of the local Bar Association was sought not one of 23 members would endorse the applicant and a leader of the Bar stated it would be a "disgrace to the judiciary" if the appointment were made.

The investigation also disclosed the applicant had the reputation of being a heavy drinker with little experience in legal matters.

In 1935 his law partner was indicted for violating the National Stolen Property Act but the case was dismissed when the principal witness was killed by an unknown assailant.

In the early 1930's the applicant carried on a notorious affair with a local beauty operator. He frequently took her to a restaurant that maintained a series of bedrooms for the convenience of customers. On one occasion the applicant had an altercation with his girl friend and his glasses were broken. He borrowed $10.00 from the proprietor of the restaurant and gave in return a worthless check. Later he demanded a return of the check and sought to intimidate the proprietor with the aid of a Deputy Sheriff and a State Liquor Inspector. The applicant's credit was bad and he was looked on with contempt by leaders in his community.

On one occasion after being on the bench he accepted a nole contendre plea from a wealthy draft evader and gave him a suspended sentence and berated the U. S. Attorney for ever presenting the case which was regarded as one of the strongest draft act cases in that area. (Presley S. Anheuser).

[redacted]

Gus J. Solomon
Federal District Judge
Portland, Oregon
(77-10137)

In the investigation vigorous opposition developed against the applicant on the grounds he was unqualified because of his extreme views, did not possess a judicial temperament and his philosophy of the law was questioned.

For many years he shared office space with Irwin Goodman, Attorney for the Communist Party, and was associated with numerous organizations regarded as Communist fronts or representing Communist viewpoints. Illustrative are the following:

Member of Sponsoring Committee for Anna Louise Strong
Member, National Lawyers Guild
Member, Scottsboro Defense Committee
Member, International Labor Defense
Contributor to The League Against War and Fascism
Member, National Council of American-Soviet Friendship
Member, Spanish Refugee Committee

In addition, he engaged in numerous other activities that invited the support of the Communist Party. He was reported as being among a delegation of 25 persons who met James W. Ford, the Vice Presidential Candidate on the Communist Party ticket on his arrival in Portland, Oregon, on October 5, 1936, and is reported to have attended a dinner for Ford that night. He was also reported to have attended the Communist Party plenum in Seattle, Washington, on March 20 - 21, 1937, at its Sunday session.

A. JURISDICTION AND DUTIES OF FBI

The FBI does not make policy; its duty is to investigate violations of Federal laws and such other matters as it might be directed to do by higher executive authority. It is responsible to the Attorney General. It does not make recommendations, or evaluate its findings. Its reports are submitted to other authorities for action.

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The function of the FBI is to secure facts within the jurisdiction assigned to it. It does not make recommendations for action following its investigations. Its reports are submitted to the Attorney General, Departmental officials, and officials of other agencies for which it performs services.

Its investigations are carried on by Special Agents assigned to the 52 Field Divisions in the United States, Alaska, Puerto Rico and Hawaii. Agents who carry on police liaison duties only are assigned in London, Paris, Heidelberg, Salzburg, Austria, Madrid, Spain, Mexico City, Rio de Janeiro, Havana, Ottawa, Canada and the Canal Zone. The FBI has no foreign intelligence responsibilities.

The FBI derives its authority from Acts of Congress and Directives of the President and the Attorney General. Its operations fall in 3 broad fields.

(A) General Investigations. The FBI investigates violations of Federal laws within its primary jurisdiction, collects evidence in cases in which the United States is or may be a party in interest and performs such other duties as are imposed upon it by law or executive authority. Violations of some 400 different Federal Statutes are investigated. As a general premise, the FBI does not investigate matters under other departments having investigative agencies and is banned by Public Law 79 enacted by the 82nd Congress at the request of the Treasury Department from investigating matters arising under laws administered by the Treasury Department.

(B) Internal Security. By virtue of orders issued first by President Roosevelt on June 17, 1939, reissued on January 8, 1943, and reissued by President Truman on July 24, 1950, the FBI has been given broad

authority to investigate espionage, sabotage and subversive matters as they relate to civilian activities. Pursuant to Presidential Directive, the Interdepartmental Intelligence Conference has delimited the field of responsibility as they relate to military and naval matters.

(C) FBI Services to Other Agencies. The FBI also provides essential Clearing House Services to Law Enforcement on all levels through its fingerprint files, technical laboratory, FBI National Academy, Uniform Crime Reporting Project and renders a cooperative effort to local, county and state authorities wherever possible providing all of the benefits of a national police with none of the disadvantages. In addition, the contents of the files are made available to all branches of the Armed Services and CIA when necessary, with which there is the finest working relations. The FBI also makes name checks for the White House and other Government Agencies.

Limitations

Contrary to popular opinion, the FBI does not make policy and its every act is dependent upon authority unless previously granted by legislative or executive directive. For example, in the absence of invasion or a state of war, the FBI could not round up all Communists and the Supreme Court has ruled that even the President cannot suspend the writ of habeas corpus unless a state of emergency exists.

Budget

A total of $82,502,000 has been requested of the Budget Bureau for the fiscal year 1954. The Budget Bureau has allowed, according to confidential information received, only $77,000,000 or $5,502,000 less than we considered our minimum needs to be. We estimated we would need a minimum of 14,067 employees in the next fiscal year which would allow for 5863 Agents and 8204 Clerks. However, with the cut by the Budget Bureau of our estimate we will be allowed a total of only 12,096 employees, consisting of 5,458 Special Agents and 7,638 Clerks.

The FBI has endeavored in the past few years to curtail its growth but increases in FBI work, and demands of other agencies have not permitted this, despite an Act of Congress last summer transferring routine investigations of applicants for other agencies to the Civil Service Commission.

Unless steps are taken either by the Budget Bureau or Congress to restore these funds, certain phases of FBI work will have to be eliminated.

B. LOYALTY PROGRAM

The disgrace of our era was the necessity to create a Federal Employee Loyalty Program. The best way to keep subversives out of Government is not to hire them in the first place and then to get rid of them upon the slightest suspicion either by discontinuing their services or moving them to a spot where they could do no harm. The Loyalty Program for practical purposes has now been completed and for the present applies primarily to persons entering the Government service. Despite its defects it has been most worthwhile. The defects are simple to correct through administrative order by making reviewing authorities independent, reserving doubts in favor of caution and the Government, by putting emphasis on sensitivity, prompt adjudication, and by putting emphasis in the final analysis on suitability.

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Background

The President appointed a temporary Commission which began its work on December 5, 1946, and submitted its final report which resulted in the President's Order 9835, creating the Federal Employee Loyalty Program on March 21, 1947. The Program did not get in operation until the fall of 1947. The FBI was not consulted on the Executive Order and first learned of it when it was announced to the press.

Duties of the FBI

The FBI had the responsibility of checking the names of incumbents and appointees through its files, making full field investigations when information was available reflecting disloyalty, searching fingerprints through its files and reporting all facts to the Civil Service Commission.

The Attorney General had the authority to list organizations deemed subversive under the order.

Loyalty Hearing Boards in each agency had the initial responsibility for adjudication with referral to the head of the agency while the Civil Service Commission Loyalty Review Board heard appeals and had the responsibility for auditing the Program and establishing policies of adjudication.

Accomplishments

From the inception of the Loyalty Program to October 31, 1952, a total of 4,531,007 forms have been processed of which 4,505,976 were returned marked "No Disloyal Data." A total of 23,987 full field investigations have been made while 667 are presently pending of which 75 are incumbent employees and 592 are of appointees.

The Civil Service Commission Loyalty Review Board reports that 2453 employees left the service or withdrew their applications prior to the completion of the investigation, and in 3118 instances the employee left the Federal service or withdrew his application prior to adjudication. In other words, a total of 5571 employees or applicants withdrew prior either to the completion of their investigation or prior to adjudication.

A total of 452 persons have either been dismissed or denied employment as a result of ineligible decisions on loyalty while 2229 cases were pending as of October 1, 1952.

Charges were made in a total of 11,106 cases while 3560 Loyalty Board Hearings have been held. (CSC Report 11-3-46).

Defects and Weaknesses of the Loyalty Program

1. At the inception of the Loyalty Program some hearing boards took the rare position of seemingly putting witnesses on trial rather than the accused. In one case a witness who could not be located was called a "plain drunk." Another witness was described as a "plain crook." Charges were made that witnesses were disreputable despite the fact they included a Member of Congress, a Mayor, a State Senator, Attorneys, Government Officials and others. (Wilbur LaRoe's remarks to Mr. Ladd in the Jesse Epstein case - 121-112-30).

2. The set-up of Loyalty Hearing Boards in many agencies include officials whose primary duty was the recruitment of personnel. Hence they had their own judgements in issue when persons they were responsible for hiring were brought before them. The order now requires 3 impartial persons of the

Department or agency concerned. An independent board made up of persons not employed by the agency might be more effective.

3. The Civil Service Loyalty Review Board is made up by individuals serving at intermittent intervals and is under the Civil Service Commission. Perhaps if the Board were made up of persons devoting their full time, wholly independent, acting on behalf of the President, the results might have been different.

4. There has been a lack of uniformity in adjudicating Loyalty cases in that some loyalty boards have failed to recognize the earmarks of subversive activity and potential dangers insofar as secret members of the Communist Party are concerned. Likewise, in instances there has been a failure to recognize pro-Communist sympathies, although the Communist Party has boasted that the Party must be built by "non-Communist hands."

5. In some instances Loyalty Boards have failed to recognize the problem of proof. They have failed to recognize that the first thing a secret member of the Party will do will be to deny he is a member of the Party.

6. Procrastination and equivocation. Loyalty Boards have put off taking action by asking for additional data which would add little to available information. There can be no excuse for unreasonable delays in adjudicating cases once the investigation is completed.

7. Sensitive positions should not be filled until the person to be employed, is thoroughly checked, even under the guise of an emergency. The Executive Order allows the Civil Service Commission 18 months in which to process appointees.

8. The loyalty order should extend to consultants who often are in policy-making positions. This has been the subject of much discussion and the Civil Service Commission is now in the state of preparing orders to accomplish this.

9. Events and public opinion in 1947 made it desirable to have a program directed primarily at Loyalty. The program so far as incumbents are concerned has for all practical purposes passed. The big problem today is in recruitment of new employees and the handling of complaints on those already in the Government, and in reviewing those cases already adjudicated as loyal but which might be decided differently if a more realistic appraisal were given.

C. QUALIFICATIONS FOR APPOINTMENT

At the very outset, establish policy that the Government will be staffed by persons of proven ability and competence, whose integrity, loyalty, and reputation are above reproach.

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If from the very beginning any aspirant for a Federal appointment knew of the strict standards to be applied, those unworthy of consideration would not be inclined to press the issue. A public statement of what was expected, which in turn would become in effect a directive, to those making and passing on appointments to minor positions would have a salutary effect. Such a statement would be an invitation to men and women of established ability and unsullied characters and reputations to have a greater desire for public service. To illustrate: when public condemnation of Communists in Government became open and it appeared that some form of investigation would be required, even prior to the announcement of the loyalty program, several persons of questionable repute left the Government service.

The need for attracting higher caliber of men and women in the Federal service has become obvious in recent years because of reluctance of good people to serve.

If it became known that men and women would be appointed only on the basis of merit and ability, this could save appointing officials from some of the pressure growing out of political endorsements which otherwise would be inevitable.

Plans should be perfected as rapidly as possible to line up the new officials for unless reorganization is well under way in the first sixty days, difficulties will be encountered. Regardless of the competence of top administrators, they must depend on staff support and of necessity will act on the basis of information and problems presented.

D. NECESSITY OF MAKING CHECKS ON APPOINTEES

No person should be appointed to a position of public trust unless the appointing power has thoroughly satisfied himself by having adequate information prior to becoming committed. To appoint some without investigation opens the appointing power to undue pressure and increases the possibility of error in appointing officials who are vulnerable to attack, pressures and temptation.

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The Chief Executive is entitled to have all the protection possible in filling key positions by having a thorough review of not only the appointee's record of achievement, but of his personal activities which has so frequently been the target of attack.

Experience has demonstrated the advisability of a thorough character, fitness and security investigation prior to appointment. Facts might be developed which would make it inadvisable to place a man in one spot, but who could serve in another in a creditable manner.

Experience has demonstrated that the investigation should be made prior to any announcement of appointment. Would-be critics might already be in possession of derogatory information and in other cases, persons possessing derogatory information would be reluctant to pass it on, on the ground it would serve no purpose and they might not want to furnish information which might later cause them to be the subject of personal animus of the appointee.

The President has the unquestioned authority, by virtue of his office, as well as by Act of Congress, to request the FBI to investigate potential Presidential appointees or whoever was being considered.

Acts of Congress now require the Civil Service Commission to investigate employees for:

1. *Institute of Inter-American Affairs*
2. *International Labor Organization*
3. *Voice of America*
4. *International Development Program*

5. Greece-Turkey Aid
6. Mutual Security Administration
7. National Science Foundation Act
8. Office of Civil Defense (District of Columbia)
9. Atomic Energy Commission

Congress provided that the Director of Mutual Security and the Atomic Energy Commission could request the FBI to investigate those positions of high sensitivity.

Under the present Loyalty Program, the Civil Service Commission is required to make certain checks, such as House Committee on Un-American Activities, ONI, G-2, FBI, school and past employment records and in the event any information reflecting disloyalty becomes apparent, the FBI is required to make a full field investigation.

Many other Departments having investigative agencies also make applicant investigations, such as State, Treasury and the Armed Services.

An important position should, however, be filled only after a thorough investigation. The FBI in cases of emergencies could get a quick line on a potential appointee in a matter of a few days, while a thorough complete investigation would require three or four weeks, depending upon the volume.

A quick check would include a check of FBI files, House Committee on Un-American Activities, Credit Bureaus, in places where the applicant resided, and a few representative contacts with persons in a position to know something about the applicant, as well as a check into past employment.

An FBI name check means a check of FBI files in Washington with a report of what appears to be reliable information. The FBI is always reluctant to disseminate rumors or information from sources of questionable reliability. A name check of FBI files, unless the applicant had a common name, could in the event of emergencies, be handled in a day or so, or perhaps less time, depending upon the volume of information available.

E. IMPROVING THE FEDERAL JUDICIARY

The Federal judiciary in reality is one of the last bulwarks of justice in this Nation. Once held in high esteem it has deteriorated to the point where many judges are a disgrace to the American Bar. Instead of providing a reward for Party Loyalty, the Federal Bench should be staffed with men who have distinguished themselves at the bar, who are looked to with confidence by their associates and the community and whose personal lives and character are unsullied.

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There are few areas in Government that need strengthening more than does the Federal bench. A judicial applicant more than any other person if he is truly suited for the assignment should welcome the application of the highest and most stringent standards of recruitment. A feeling has developed in recent years that a life time appointment to the Federal Bench at $15,000 a year is a reward for party service. The following suggestions are advanced for improvement of the Bench:

1. The creation of a policy of filing evidence of judicial misconduct before the House Judiciary Committee for consideration of impeachment proceedings where justified by the facts. Many Judges have taken tyrannical views on matters coming before their courts and instead of becoming dispensers of justice have made their courts into forums for their own views.

Even though impeachment proceedings could not be sustained, should the House Judiciary Committee start looking into judicial misconduct, this would have a most salutary effect.

2. When judicial vacancies occur, ample time should be allowed for a full and complete and searching investigation into the applicant's fitness for the Bench, his record of legal achievement and to insure that his character, reputation and personal life are above reproach.

3. A statement of policy on the type of men and women to be considered for judicial appointment with a recital of high standards to be sought would not only serve as a directive to officials screening appointments but would forestall recommendations of those unsuited and prevent pressures in the form of political endorsements. Since such posts require Senate confirmation and since by tradition a Judge to be confirmed must have either the endorsement of his Senators or at least they must not interpose personal objection, consideration might very well be given to enlisting the cooperation of the Senate Judiciary Committee in establishing a policy for appointments.

4. Certainly no serious consideration should be given to an applicant concerning whom there is any substantial objection based on lack of judicial fitness, lack of judicial temperament, lack of legal experience and achievement or when there is any creditable doubt as to the applicant's character and reputation. Serious consideration should be given to organization affiliations. The mere fact that a person lends his name to a front organization or other group of a questionable character does not in and of itself prove disloyalty, nevertheless, it does reflect on a man's judgement.

5. The screening process prior to recommending nominations to the President should be vigorous and strict. Obviously, in this type of investigation, lawyers, who would be in the best position to furnish information, will not do so unless their confidences can be protected and the investigating Agents must have the complete assurance that their representations that information furnished in confidence will be respected. What is more important is that the facts developed by the investigation be given due consideration. This has not always been the case and is reflected by the following illustrative cases of how the Federal Judiciary has fallen in public esteem.

A. One Federal Judge who has become almost tyrannical on the bench had vigorous opposition, had the reputation of drinking to excess, associating with Communists, and carrying on an affair with a female employee in the agency where employed. (Willis Wm. Ritter, Utah).

B. Another Federal Judge who is prejudiced against law enforcement was known as a "social snob,"

a heavy drinker, of questionable moral conduct and

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[redacted] (Stephen S. Chandler, Okla.)

C. In another case 23 members of a local Bar which were contacted would not endorse a Judge. The leader of the Bar said his appointment would be a "disgrace to the judiciary." The Judge had a reputation of being a heavy drinker, his law partner was indicted and freed after the principal witness was killed, and in addition, the Judge frequented places of ill repute, had illicit affairs and on one occasion gave a $10.00 worthless check. His Senator got him confirmed by a suspension of Senate rules on the representation he had been carefully investigated and was outstanding. (Richard M. Duncan, Kansas City, Mo. The Senator was Harry Truman).

D. Another Judge had shared office space with the Attorney for the Communist Party, had been associated with several Communist front organizations, reputed to have attended a plenum of the Communist Party and was among a delegation welcoming the Vice Presidential Candidate of the Communist Party to his city. (Gus J. Soloman, Portland, Oregon).

F. TO IMPROVE EFFICIENCY OF THE FEDERAL SERVICE

The Federal service in many instances needs energizing and more vigor. The merit system if enmeshed in red tape destroys its effectiveness and unless improved will eventually bring insecurity to the Federal employee. Congress never intended that initiative was to be stifled and personal ingenuity go unrewarded. A premium needs to be placed on achievement and the ambitious, capable and individualistic employee should not be judged in terms of the average nor standards of satisfactory performance brought down to the level of mediocrity. Red tape and stifling regulations hinder rather than promote a higher performance.

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If the caliber of Federal employees under Civil Service is to be improved, consideration should be given to revamping Civil Service procedure by making the Commission more flexible and freeing it from red tape. In big organizations there is a likelihood of administration by regulation rather than by good judgment, ingenuity, industry and personal initiative. Consequently, job performances seek a level of the average and "just getting by" rather than excellence.

The Federal service could be improved by certain administrative actions. Other would require legislation.

1. A thorough review needs to be made of Civil Service job evaluation and classification procedure to insure that agencies operating under considerable pressure, where responsibilities are greater, where the standards of efficiency are higher and the individual employee in terms of work performed has a higher productivity than in other agencies whose operational procedures are routine, are not stifled.

2. Some action is necessary to strengthen the hands of conscientious and sincere administrators to enable them to remove incompetent employees and those who do not measure up to the high standards which the Federal service should demand.

Removal of incompetents now is a costly procedure and administrators are prone to adopt the attitude of "that's the use." As a consequence, morale suffers and otherwise capable employees become discouraged when they observe others not putting in an honest days work or engaging in conduct unbecoming the Federal service. Federal service is a privilage and not a right. Present rules and regulations should be considered to the end that a person can be dismissed for incompetence or for actions unbecoming the Federal service without the laborious, time consuming costly procedures which are now in effect. A set of standards might very well be publicized or even enacted into law with the proviso that violations of such standards would constitute a breach of contract and by such breach being established summary dismissal becomes mandatory.

3. Likewise the soft attitude which has grown up in recent years should be combatted and changed. To illustrate: In years gone by the FBI has been denounced for reporting information reflecting personal misconduct and indiscretions despite our vaunted boast that public office is a public trust. In the early days of the Federal Employee Loyalty Program it was suggested to the FBI that full field investigations be directed only at allegations of disloyalty and even information reflecting personal misconduct not be reported.

G. PREVENTING GRAFT AND CORRUPTION IN THE GOVERNMENT SERVICE

As the National Government increases in size and complexity the possibility of the increase in corruption is ever present. Inherent honesty, integrity and a will to serve on the part of all officials is the best preventive with making the consequences of corruption or even suspected corruption so inexorable to all concerned that the temptation will be lessened is the only sure way to halt its spread.

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The New Administration can expect that unprincipled special interests will launch an assault to entrench themselves at the earliest possible moment. Only a determined, cold facing of the situation will halt its approach. The first step is to curry favoritism and then special favors.

Detection and prosecution for violations of Federal law on the part of Federal officials alone will not completely solve the problem. Experience has demonstrated that improper conduct for the most part does not constitute a law violation but instead violates high moral and ethical standards of conduct, good judgement and common decency.

The best preventive is the appointment of high-minded men of principle who hate abuse of power - men who are competent of giving tight administration and who will set high standards for those who serve under them. There could be no effective way of policing good morals, principles and conduct through an investigative agency without making Federal service oppressive.

What is needed is a clear-cut definition of what is proper and what is not proper and a ruthless policy of holding responsible heads of agencies for their acts as well as those of their subordinates. A determined revitalization

of regulations already in existence and statutes already on the law books will do much to prevent acts of corruption. The exposure of any acts of impropriety and the pitiless spotlight of public opinion even though they are not subject to prosecution in court should prove to be a cauterizing effect.

Specific observations and suggestions:

1. Establish uniform regulations of conduct and ethics in the Federal service designed to bar employment of persons of questionable repute and character.

2. The head of each agency should have some kind of inspection service to check complaints of administrative nature, to make audits, to insure uniformity in operations and to endeavor to expose any breaches in integrity.

3. Firmly establish by Executive Directive or order the principle that any complaint which, if true, would be a violation of Federal laws, be promptly referred to the Attorney General for evaluation and assignment for investigation. In view of Public Law 79 enacted at the request of the Treasury Department, which reserves to the Treasury Department investigation of violations of laws administered by the Treasury Department, such matters could not be handled by the FBI. Accordingly, provision should be made by the Attorney General to refer the matter to the Treasury Department or other agency involved when the FBI would not have jurisdiction for handling and the subsequent submission of reports to the Attorney General, who, in turn, can report to the President if so directed.

4. Persons entering the Government from private life should disqualify themselves from carrying on negotiations with their old concern or companies in which they have a large financial interest unless so directed by their agency head or official superior, which in the case of a cabinet officer, would be the President. Even then the Federal employee should make a matter of record his negotiations with his former employer or with such concern in which he has a large financial interest.

5. A person leaving the Federal service shall not represent any person or concern before the Federal department with which he was employed except by consent of the head of

the Federal agency and only after he has made a full disclosure in writing to the agency as to his past Government service, what his assignments were, his present fees and a full statement of the amount of work involved, which disclosure shall be considered a matter of public record upon any specific inquiry from a bona fide source.

6. Prohibit the acceptance of gifts or favors on the part of Federal employees from persons or concerns doing business with the Federal agency when employed where the Federal employee is in a position to make decisions, recommendations, presentations or whose work in any way is related to formulating decisions, policies or the awarding of contracts or the making of purchases. Provide further that the offer of gifts or favors to Federal employees in positions above enumerated shall be grounds for terminating contracts already entered into or barring said persons or concerns from receiving favorable consideration in fiscal matters with any other Government agency. Further require each Federal employee to report in writing any offer of gifts as above enumerated.

7. To make it more difficult for five percenters and influence peddlers to intervene, every effort should be made to require all business with the Federal Government on fiscal matters to be conducted through official channels and insofar as possible in offices of the Federal Government. Likewise, there should be a requirement that all inquiries or endorsements of persons pertaining to fiscal matters of the Federal Government be made a matter of record.

8. Provide that every Government contract or negotiation shall be subject to review by the General Accounting Office within a period of six months. To illustrate: The 1st War Powers Act of 1941, which is still in effect, provided that actions of the Administrator of the Act were final and conclusive and prevented an independent audit by the General Accounting Office wherein it would be possible to either renegotiate contracts or challenge any part of the contract even though costs were excessive.

H. LEAKS TO THE PRESS

The problem of leaks to the press and other sources of news dissemination is as old as official Washington. Experience has demonstrated that an investigation by the FBI to ascertain the source succeeds only in alienating wider segments of the media of news dissemination.

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The publication of classified information without proper authorization is a serious matter in itself. In the past there has been a tendency to seek to stop such leaks by ordering an FBI investigation. In many instances the information has been made known to thousands of persons. Information of a highly classified nature must be controlled from within the Agency involved. It is highly significant that leaks never occur in some agencies and are frequent in others. The answer is found in the tightness of administration and should a top official be held responsible for a leak in his organization, it can be certain he will take steps to make it more difficult in the future.

Should the leak be of such great importance then a Grand Jury with the power of subpoena and the added weapon of perjury prosecutions should be considered.

I. NEED TO CONTROL SOVIET AND SATELLITE OFFICIALS

Soviets and their allies have many more opportunities to injure the United States than our people do in Russia. United Nation delegations have unlimited freedom. Travel restrictions not sufficiently tight.

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1. Travel Control

There are 273 Soviet Nationals employed in USSR establishments in the United States, including the Soviet Embassy, and delegations from the Ukraine and Byelorussia, Amtorg, Tass News Agency and in the United Nations Secretariat. The United States Embassy in Moscow has 84 American Nationals and 92 Soviet Nationals. No American Nationals are employed in the Soviet establishments in the United States.

Nineteen Soviet Nationals are attached to the United Nations Secretariat who can come and go as they please, even though diplomatic relations were terminated.

On March 10, 1952, the State Department issued travel regulations which were applied only to Soviet officials on the Embassy staff and other Soviet Nations in Washington and to the Amtorg staff in New York. As of October 1, 1952, this applied to only 93 while they did not apply to 180 other Soviet officials in the United States. The travel restrictions were relaxed during the summer months to permit Soviets to visit summer resort areas. There are no restrictions on public carriers, while Americans in Russia must secure all reservations from Intertourist.

The travel restrictions limited travel to within a radius of 25 miles of their assignment, either in New York or Washington, unless there was 48-hour prior notification. The FBI on October 22, 1952, suggested to the State Department a tightening of these regulations to require Soviets to specify who the Soviets intended to contact.

2. Diplomatic Visa Holders

Section 22 of the Internal Security Act provides that aliens seeking to enter the United States, who engage in activity endangering the welfare or safety of the United States, including

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engaging in espionage, sabotage or the overthrow of the United States Government, should be excluded from admission, or once admitted be deported. This Section is applicable to 3 (1) and 3 (7) visa holders, except these diplomatic officials and families accredited to the President or Secretary of State.

While the FBI has no responsibility under this Section, we have pointed out to the Attorney General the loopholes with respect to 3 (1) and 3 (7) visa holders as the State Department does not screen these individuals prior to the issuance of such visas from the Soviet bloc.

3. Diplomatic Evasion of Export Control Laws

Soviet and Satellite Embassies over extended periods of time have been using the Diplomatic Pouch to evade export controls by shipping out hard to get materials. The Czechoslavakians only recently have been sending out large supplies of electronic materials and when accosted, declined to state what was in the pouch or to open it.

The FBI has over a period of time called this practice to the attention of the State and Justice Departments and it has been suggested that this problem be placed before the National Security Council.

On the other hand, Soviet regulations governing the entry of diplomatic baggage and shipments into Russia are most burdensome.

4. Soviet Embassies and Organizations Used as Base for Espionage Operations

Experience and investigation have conclusively established that the Soviet espionage activities in this country are directed from diplomatic and other official establishments.

Since 1933, 81 Soviet agents operating from Soviet establishments have been definitely identified and there is unverified information that 48 others were reported Soviet espionage agents. At the present time, 22 are known to be operating within the United States. Every effort has been made to surveil their operations and develop double agents who would become their chief contacts and thus seek to control information they get.

However, it is difficult to guarantee they are not

getting information inasmuch as through the United Nations set up it is virtually impossible to penetrate their circles and, of course, extreme caution must be used to avoid embarrassing our Government.

As an illustration of how we are wide open in many respects, Yuri Novikov, a secretary at the Soviet Embassy, who is regarded as an important figure in Soviet espionage in the United States, sat at the trial table in the Coplon case and prompted the defense attorneys on what questions to ask FBI Agents on cross-examination.

J. PROBLEMS OF INTERNAL SECURITY

1. Wire Tapping

Following the second Nardone decision by the Supreme Court on December 11, 1939, banning the use of evidence secured as a result of following leads resulting from wire tapping, Attorney General Robert S. Jackson on March 16, 1940, prohibited the use of wire tapping in the FBI.

President Roosevelt by memorandum dated May 21, 1940, authorized and directed the Attorney General to authorize use of wire taps in cases involving subversive activity against the United States. A statement dated February 21, 1941, which was made public, enlarged upon the use of telephone taps to be used in the cases of kidnapping and extortion.

President Truman, according to advice of Attorney General Tom C. Clark on November 14, 1945, issued orders at a cabinet meeting that there was to be no telephone taps by any Government agency unless approved by the Attorney General. Attorney General Clark on July 17, 1946, presented a letter outlining FBI practices on wire tapping which the President approved.

The FBI since 1940 to the present follows the practice of not utili-ing telephone taps unless specifically authorized by the Attorney General and then only in cases involving internal security or where human life is in jeopardy such as in kidnapping and extortion cases.

In penetrating clandestine operations of subversive groups the use of wire tapping is the only way certain information can be secured. However, once wire tapping is used the legal technicalities make prosecutions most difficult if not virtually impossible inasmuch as the defense, once wire tapping is shown, has the right of discovery making it virtually necessary to produce some of the most confidential files in the FBI.

The heads of Military Intelligence, Naval Intelligence and the FBI recommended to the Attorney General that legislation be secured to correct the Supreme Court investigations of Section 605 of the Federal Communications Act.

Congressman Celler of January 23, 1951, introduced H. R. 1949 in the House of Representatives. The Attorney

General followed this matter with the Congress early in 1952 but no action was taken.

Such legislation, admitting in evidence information secured from wire taps on authority of the Attorney General is the only way whereby certain cases can be prosecuted.

2. Change Statute of Limitations in Espionage Cases.

Since 1946 the Interdepartmental Intelligence Conference has urged legislation to remove the Statute of Limitations from peace time espionage by providing the death penalty, imprisonment for any term of years or for life. While such legislation has been introduced, no action has been taken by Congress.

3. Maintaining Confidential Character of FBI Files.

The FBI has sought to protect the integrity of its files when divulgance would:

(a) Reveal confidential investigative techniques or procedures
(b) Reveal the identity of confidential informants
(c) Would violate a confidence expressed or implied
(d) Reveal information not pertinent to the issue

Departmental Order 3229 protects the confidential character of FBI files; however, there has been a judicial trend to disregard this Order. The confidential character of FBI files must be maintained at all costs, otherwise, the work of the FBI will become ineffectual.

4. Potential Smuggling of Atomic Weapons into the United States.

As early as November 1947 the FBI raised the possibility of smuggling component parts of atomic weapons into the United States by diplomatic baggage. After lengthy discussions the Subcommittee on Foreign Diplomatic and Official Personnel of the Interdepartmental Committee on Internal Security submitted a report to the National Security Council wherein the majority recommended no examination of diplomatic baggage. The Department of Justice representative recommended examination of unaccompanied baggage and that a limitation of 500 pounds be placed on unaccompanied baggage. On July 1, 1952, the FBI advised the Attorney General and the National Security Council that the majority report of ICIS provided no protection and the minority report setting forth the Departmental Representative's views was unsatisfactory.

Previously, on June 20, 1952, the FBI advised the National Security Council that the FBI recognized that the nuclear

components of atomic weapons weighing much less than 500 pounds could be brought in to the United States in diplomatic pouches and that without physical inspection of the contents of such pouches the presence of fissionable materials would go undetected. The FBI further pointed out that even an X-Ray examination would detect fissionable materials. While on this subject, the FBI has called to the attention of the National Security Council that Soviet nerve gases could be imported in aerosol canisters in diplomatic pouches.

The security of the United States demands we take some steps to protect ourselves from the importing of atomic weapons which are becoming increasingly smaller in size. The question is still before the National Security Council. The Chairman of the Atomic Energy Commission concurs with the FBI that some measures must be found to determine whether fissionable material is being brought into the United States under diplomatic immunity. The FBI has also urged the Atomic Energy Commission to develop counter measures and detection devices to meet this problem.

5. Screening of Air Crews in International Flights.

The largest remaining gap in the coverage of international traffic has to do with the crews of airplanes engaged in international flights. The Interdepartmental Committee on Internal Security on July 14, 1952, concluded that air crews should be subject to security screening, including name checks by the Intelligence Agencies. The Civil Aeronautics Administration on October 31, 1952, advised of the difficulties involved as:

(a) Lack of funds to defray the expenses of name checks
(b) Lack of experience in setting up and handling administrative tribunals for hearings on revocation of air certificates on subversive charges
(c) Lack of personnel in CAA, the Customs Service and the Immigration Border Patrol to properly police illegal flights

The matter is now being given further study by the Interdepartmental Committee on Internal Security.

6. Security Clearance for NATO and other Personnel.

The Departments of State, Defense and Justice have concurred on the desirability of prior clearances of foreign personnel having access to classified information. State and Defense Departments are presently studying mechanics of prior clearances of NATO and other foreign personnel coming to the United States. The Bureau has taken exception to the ICIS position since under their latest view no person invited to the United States by a Government Agency by name would be screened. Thus, a scientist like Dr. Klaus Fuchs could be invited to the United States and not be screened. Likewise the Bureau is objecting to the ICIS position in

that it is felt more information should be furnished such as the name of the spouse, relatives and former addresses.

7. Custodial Detention Program.

The FBI as a part of the Internal Security Program maintains lists of individuals whose activities are such as to endanger the Internal Security of this Nation in the event of an outbreak of hostilities. Persons considered under this program are such that they would be a threat to our security if permitted to be at liberty in case of an extreme emergency.

Persons are placed on this list after investigation on the basis of the following considerations:

(a) Active participating members of the Communist Party or other revolutionary groups.

(b) Persons active in Communist front organizations or in organizations espousing the Communist Party line.

(c) Persons who are now or have in the past been engaged in espionage activities.

(d) Persons who have adhered to foreign revolutionary ideologies which have not been offset by subsequent cooperation with the U. S. Government.

(e) Persons who have had training and experience in carrying out dictates of revolutionary groups, positions of leadership in such groups or have had other subversive training and/or who are employed in vital facilities along with persons whose past activities make them potentially dangerous such as past membership in basic revolutionary groups since January 1, 1949. In addition, persons who prior to January 1, 1949, were associated with revolutionary groups and whose activities reflect their potential dangers are included.

As of November 7, 1952, a total of 19,577 persons are included in the Program and persons are constantly being added as investigating reveals they are potentially dangerous while others are removed when it is determined that there is no question as to their no longer being potentially dangerous.